

# Disciplinary and Other FINRA™ Actions

## Firms Fined, Individuals Sanctioned

**Choice Investments, Inc. (CRD® #17665, Austin, Texas) and Donald Arthur Itzen (CRD #853436, Registered Principal, Austin, Texas)** submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$20,000, \$10,000 of which was jointly and severally with Itzen. Itzen was suspended from association with any FINRA member in any principal capacity for 20 business days. Without admitting or denying the findings, the firm and Itzen consented to the described sanctions and to the entry of findings that the firm, acting through Itzen, approved a research report for a company that was issued to the firm's customers, but did not contain a disclosure that the firm had received compensation for investment banking services from the company. The findings stated that the firm, acting through Itzen, failed to ensure that the research reports contained such disclosure. The findings also stated that the firm issued subsequent research reports that did not contain such disclosure.

The suspension was in effect from March 16, 2009, through April 13, 2009. (FINRA Case #2007007159701)

**Hallmark Investments, Inc. (CRD #135003, New York, New York) and Steven Gary Dash (CRD #2438498, Registered Principal, New City, New York)** submitted an Offer of Settlement in which the firm was censured and fined \$15,000, and Dash was suspended from association with any FINRA member in any capacity for two months. In light of Dash's financial status, no monetary sanctions were imposed. Without admitting or denying the allegations, the firm and Dash consented to the described sanctions and to the entry of findings that the firm, acting through Dash, filed a membership application that was incomplete or inaccurate so as to be misleading, and failed to correct the filing. The findings stated that the firm, acting through Dash, failed to file a required application with FINRA for approval of change of ownership. The findings also stated that Dash engaged in private securities transactions without providing prior written notice to his member firms or securing the firms' written approval.

The suspension is in effect from April 6, 2009, through June 5, 2009. (FINRA Case #2006003689501)

## Reported for April 2009

FINRA has taken disciplinary actions against the following firms and individuals for violations of FINRA rules; federal securities laws, rules and regulations; and the rules of the Municipal Securities Rulemaking Board (MSRB).



Financial Industry Regulatory Authority

## Firm and Individual Fined

**LF Financial, LLC (CRD #38619, Boca Raton, Florida) and Jed Philip Kaplan (CRD #1622929, Registered Principal, Boca Raton, Florida)** submitted a Letter of Acceptance, Waiver and Consent in which the firm and Kaplan were censured and fined \$15,000, jointly and severally. Without admitting or denying the findings, the firm and Kaplan consented to the described sanctions and to the entry of findings that the firm, acting through Kaplan, failed to report, or timely report, disclosable settlements; failed to timely report disclosable regulatory orders; and failed to timely file summary and statistical information for customer complaints that the firm received. The findings stated that the firm, acting through Kaplan, failed to file a Uniform Application for Securities Industry Registration or Transfer (Form U4) amendment and failed to timely file amendments to Uniform Applications for Broker-Dealer Registration (Forms BD), Forms U4 or Uniform Termination Notices for Securities Industry Registration (Forms U5). (FINRA Case #2007007150401)

## Firms Fined

**Chase Investment Services Corp. (CRD #25574, Chicago, Illinois)** submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$150,000. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it failed to accurately complete Forms U5 following the termination of registered representatives alleged to have committed theft, fraud or violations of investment-related rules. The findings stated that the firm's failure to complete Forms U5 hindered the investing public's ability to access information regarding the termination of registered representatives. The findings also stated that the firm failed to establish and maintain a supervisory system and written procedures reasonably designed to achieve compliance with its obligation to complete and submit accurate Form U5 filings to FINRA. (FINRA Case #2007009764901)

**City National Securities, Inc. (CRD #103705, Beverly Hills, California)** submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$315,000, and required to submit to a buyback offer to purchase at par auction rate securities (ARS) subject to auctions that have not been successful as of October 21, 2008, and are not subject to current calls or redemptions (Eligible ARS) from all investors who purchased Eligible ARS between May 31, 2006, and February 28, 2008 (Relevant Class). No later than six months from the date of the AWC, the firm shall make its best efforts to provide liquidity to all other investors not in the Relevant Class but who purchased Eligible ARS from the firm. The firm shall reasonably identify investors who sold Eligible ARS below par between February 28, 2008, and October 21, 2008, and pay them the difference between par and the price at which they sold the ARS. The firm shall arbitrate claims for consequential damages filed by investors in the Relevant Class relating to Eligible ARS through a Special Arbitration Program (SAP), and provide FINRA with a report following the completion of the buyback concerning compliance with the settlement.

Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that its communications with the public, including customers and prospective customers, in the marketing and sale of ARS, were not fair and balanced, and did not provide a sound basis for evaluating the facts in regards to the ARS purchases. The findings stated that the materials the firm used failed to adequately disclose the risks of investing in ARS, including the risk that ARS auctions could fail, that investments in ARS could become illiquid, and that customers might be unable to obtain access to funds invested in ARS for substantial time periods. The findings also stated that the firm made inappropriate comparisons between ARS and other materially different investments. The findings also included that the firm failed to establish and maintain procedures reasonably designed to ensure that it marketed and sold ARS in compliance with securities laws and applicable FINRA and MSRB rules, such as maintaining procedures to ensure that its registered representatives accurately described ARS to customers during sales presentations and provided customers with adequate disclosures of the risks of ARS. FINRA found that the firm failed to provide adequate training to its registered representatives regarding the features and characteristics of ARS, and the differences between ARS and other investments. FINRA also found that the firm failed to establish and maintain procedures reasonably designed to ensure that written materials used in connection with the marketing and sale of ARS complied with the applicable disclosure standards in NASD® Rules 2210 and 2211, and MSRB Rule G-21. **(FINRA Case #2008014620101)**

**David A. Noyes & Company (CRD #205, Chicago, Illinois)** submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$12,500. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it failed to report to the NASD/NASDAQ Trade Reporting Facility® (NNTRF) or the Over-the-Counter (OTC) Reporting Facility (OTCRF) the correct symbol indicating whether it executed transactions in reportable securities in a principal, “riskless” principal or agency capacity. The findings stated that the firm failed to report the short sale or short exempt indicator for short sales. The findings also stated that the firm transmitted reports to the Order Audit Trail System (OATS™) that contained inaccurate, incomplete or improperly formatted data, in that the reports contained inaccurate timestamps, incorrect order-type codes and incorrect information for proprietary transactions in a market-making security. The findings also included that the firm failed to provide order memoranda and failed to memorialize correctly order information, order receipt time or the order type code. **(FINRA Case #2007008322001)**

**Deutsche Bank Securities Inc. (CRD #2525, New York, New York)** submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$43,000. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it transmitted reports to OATS that contained inaccurate data in that the reports were improperly submitted with a Reporting Exception Code of “P” when, in fact, the transactions were not intra-firm proprietary executions. The findings stated that the firm failed to report required transactions in Trade Reporting and Compliance Engine™ (TRACE™)-eligible securities to TRACE within 15 minutes of execution time. The findings also stated that the firm failed to report information regarding transactions effected in municipal securities to the Real-Time Transaction Reporting System (RTRS) within 15 minutes of time of

trade to an RTRS Portal. The findings also included that the firm failed to timely report transactions that required a .RO, .RA or .RX modifier to the NNTRF. FINRA found that the firm failed to provide written notification disclosing to its customers its correct capacity in transactions; failed to disclose the type of compensation it received on confirmations; failed to provide written notification disclosing to its customers that transactions were executed at an average price; and failed, when it acted as principal for its own account, to provide written notification disclosing to a customer that it was a market maker in the security. **(FINRA Case #2006005064401)**

**EuroPacific Capital, Inc. (CRD #8361, Darien, Connecticut)** submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$37,500. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it failed to timely adopt a written Anti-Money Laundering (AML) program, provide AML training and respond to information requests from the Financial Crimes Enforcement Network of the U.S. Department of the Treasury. The findings stated that the firm failed to file an application to obtain FINRA's approval for a material change in its business operations when its minimum net capital increased due to the receipt of customer checks. The findings also stated that the firm's Web site did not present balanced discussions of risks and contained misleading, exaggerated and unwarranted statements, and contained comparisons of services that failed to disclose all material differences. The findings also included that the firm failed to establish and maintain a supervisory system and written procedures reasonably designed to ensure compliance with rules concerning best execution of customer foreign securities transactions. **(FINRA Case #2005003364102)**

**J.J.B. Hilliard, W.L. Lyons, LLC (CRD #453, Louisville, Kentucky)** submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured, fined \$25,000 and required to pay \$5,987, plus interest, in restitution to investors. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it sold or bought corporate bonds to or from customers and failed to sell or buy the bonds at a price that was fair, taking into consideration all relevant circumstances, including market conditions with respect to each bond at the time of the transaction, the expense involved and that the firm was entitled to a profit. **(FINRA Case #2006004293901)**

**Macquarie Capital Markets North America Ltd. (CRD #38108, Toronto, Ontario, Canada)** submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$10,000. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that, as an Intermarket Trading System/Computer Assisted Execution System (ITS/CAES) market maker, it purchased or sold ITS/CAES securities, whether in a principal capacity or as an agent, at a price that was lower than the bid or higher than the offer displayed from an ITS Participant Exchange or ITS/CAES market maker. The findings stated that the firm executed block transactions in ITS/CAES securities as an ITS/CAES market maker at an execution price outside the best quotation for the security displayed by any ITS participant market or other ITS/CAES market maker, without sending to each other participant market and each ITS/CAES market maker displaying a bid or offer superior to the execution price, a commitment to trade, at the execution price, to satisfy the number of shares displayed in that participant market's bid or offer. **(FINRA Case #2006005741801)**

**National Investor Services Corp. (CRD #39410, Bellevue, Nebraska)** submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$75,000. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it failed to establish, maintain and enforce an adequate supervisory system and written supervisory procedures to supervise its securities lending business and registered securities lending representatives to prevent and detect fraudulent activity. The findings stated that the firm did not include a description of what managers were to look for in reviewing Loanet reports, the steps to be taken if questionable activity was discovered, and how to document and maintain documentation of supervisors' oversight activities. The findings also stated that the firm failed to take steps to detect and prevent a registered representative from participating in fraudulent stock loan transactions for his personal benefit. The findings also included that the firm failed to establish and maintain a separate system of follow-up and review to ensure that delegated supervisory authority and responsibility were being properly exercised. FINRA found that the firm permitted a stock loan supervisor to review his own transactions. **(FINRA Case #2007011877701)**

**Northeast Securities, Inc. (CRD #25996, Mitchelfield, New York)** submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured, fined \$25,000 and required to revise its written supervisory procedures regarding Securities and Exchange Commission (SEC) Rules 202, 203 and 606, market order protection, soft dollars, physical security of equipment, best execution, trading halts, Chinese Walls, recordkeeping, anti-competitive practices, firm quotations, OATS, OATS clock synchronization, registration, qualification of supervisors, limit order display, the three-quote rule, short sale order marking, short sale indicator reporting and accepting trade reports within 20 minutes. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it failed to submit required information to OATS and submitted inaccurate information to OATS. The findings stated that the firm failed to notify customers, in writing, at least annually, of the availability on request of information concerning the identity of the venue to which the customer's orders were routed for execution in the six months prior to the request; whether the orders were directed orders or non-directed orders; and the transaction times, if any, that resulted in such orders. The findings also stated that the firm made available a report on its routing of non-directed orders in covered securities that included incorrect order routing information. The findings also included that the firm failed to show the time, or the correct time, of execution; the time, or the correct time, of entry; partial executions on brokerage order memoranda; failed to show the terms and conditions, or the accurate terms and conditions, on brokerage order memoranda; and failed to show the execution time in seconds for executions on one brokerage order memorandum. FINRA found that the firm failed to preserve, for a period of not less than three years, the first two in an accessible place, brokerage order memoranda and customer account statements. FINRA also found that the firm's supervisory system did not provide for supervision reasonably designed to achieve compliance with applicable securities laws, regulations and/or FINRA rules addressing SEC Rules 202, 203 and 606, market order protection, soft dollars, physical security of

equipment, best execution, trading halts, Chinese Walls, recordkeeping, anti-competitive practices, firm quotations, OATS, OATS clock synchronization, registration, qualification of supervisors, limit order display, the three-quote rule, short sale order marking, short sale indicator reporting and accepting trade reports within 20 minutes. (FINRA Case #2006006191401)

**Raymond James & Associates, Inc. (CRD #705, St. Petersburg, Florida)** submitted a Letter of Acceptance, Waiver, and Consent in which the firm was censured and fined \$15,000. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it processed corporate and municipal bond transactions that it received from the registered investment advisors handling customers' accounts at the firm's introducing/correspondent firms, and used the introducing/correspondent firms' market participation identifier (MPID), as well as its own MPID, when reporting corporate bond trades to TRACE and when reporting municipal bond transactions to the Municipal Securities Rulemaking Board (MSRB), when it should have solely used its own MPID. (FINRA Case #2006003705501)

**Schonfeld Securities, LLC (CRD #23304, Jericho, New York)** submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$47,500. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it accepted customer short sale orders in certain securities and, for each order, failed to make/annotate an affirmative determination that the firm would receive delivery of the security on the customer's behalf or that the firm could borrow the security on the customer's behalf for delivery by settlement date. The findings stated that in connection with orders, the firm effected short sales in certain securities for its proprietary account(s) and failed to make/annotate an affirmative determination that the firm could borrow the securities or otherwise provide for securities' delivery by settlement date. The findings also included that the firm accepted short sale orders in an equity security from another person, or effected short sales in an equity security for its own account, without borrowing the security, or entering into a bona fide arrangement to borrow the security; or having reasonable grounds to believe the security could be borrowed so that it could be delivered on the date delivery is due; and documenting compliance with SEC Rule 203(b)(1) of Regulation SHO. FINRA found that the firm failed to provide documentary evidence that it performed the supervisory reviews set forth in its written supervisory procedures concerning NASD Rule 3370 and SEC Rule 203(b)(1). FINRA also found that the firm failed to timely report Reportable Order Events (ROEs) to OATS. (FINRA Case #2005000686501)

**Spartan Securities Group, Ltd. (CRD #104478, St. Petersburg, Florida)** submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$31,000. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it failed to submit to the NNTRF, for the offsetting, "riskless" portion of "riskless" principal transactions in designated securities, either a clearing-only report with a capacity indicator of "riskless principal," or a non-tape, non-clearing report with a capacity indicator of "riskless principal." The findings stated that the firm failed to report last sale reports of transactions in designated securities to the NNTRF, and failed to report the correct symbol to the OTCRF indicating



whether the firm executed one transaction in reportable securities in a principal or agency capacity. The findings also stated that firm failed to submit to the OTCRF, for the offsetting “riskless” portion of “riskless” principal transactions in designated securities, either a clearing-only report with a capacity indicator of “riskless principal,” or a non-tape, non-clearing report with a capacity indicator of “riskless principal,” and failed to report last sale reports of transactions in OTC equity securities to the OTCRF. The findings also included that the firm incorrectly reported the second leg of “riskless” principal transactions as “principal” or “agent” to the OTCRF. FINRA found that the firm failed to transmit required information to OATS for ROEs, and transmitted reports to OATS that contained inaccurate, incomplete or improperly formatted data. FINRA also found that the firm, when it acted as principal for its own account, failed to provide written notification disclosing to its customers that it was a market maker in each security. In addition, FINRA determined that the firm failed to show the execution time, the order receipt time, the correct capacity, and the terms and conditions on brokerage order memoranda, and failed to show the cancellation time on one brokerage order memorandum. Furthermore, FINRA determined that the firm failed to preserve brokerage order memoranda for a period of not less than three years, the first two in an accessible place. Moreover, FINRA determined that the firm executed short sale transactions and failed to report each of the transactions to the OTCRF with the correct symbol indicating whether the transaction was a buy, sell, sell short or cross for transactions in reportable securities. FINRA also found that the firm failed to make publicly available for a calendar quarter a report on its routing of non-directed orders in covered securities during that quarter. **(FINRA Case #2007009924901)**

**StockCross Financial Services, Inc. (CRD #6670, Beverly Hills, California)** submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$60,000. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it failed to preserve all employee electronic communications, including personal email and instant messaging services. The findings stated that the firm’s written procedures failed to provide for any reasonable follow-up and review to ensure that electronic communications were, in fact, being printed out and reviewed, and because it failed to adequately preserve employee electronic communications, it could not show that it was reviewing and approving them. The findings also stated that the firm failed to demonstrate that it was preserving or reviewing facsimile communications that branch office employees sent or received. FINRA found that the firm failed to make and preserve books and records related to customer accounts, and failed to maintain a record of the individual at a branch office who could explain the types of records maintained at that branch and the information contained in the records. **(FINRA Case #2007009467901)**

**UBS International Inc. (CRD #107726, New York, New York)** submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured, fined \$12,500 and required to revise its written supervisory procedures regarding TRACE reporting. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it failed to report the lower of yield to call or yield to maturity for transactions in TRACE-eligible securities to TRACE. The findings stated that the firm failed to provide written notification disclosing to its customers required yield information concerning transactions in TRACE-eligible securities. The

findings also stated that the firm's supervisory system did not provide for supervision reasonably designed to achieve compliance with applicable securities laws, regulations and FINRA rules concerning TRACE reporting. (FINRA Case #2007010449301)

**The Vertical Trading Group, LLC ( CRD #104353, New York, New York)** submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured, fined \$25,000 and required to revise its written supervisory procedures regarding the One Percent Rule; the dissemination of quotations to vendors; monthly order execution information; SEC Regulation SHO's locate requirements; the acceptance of short sale orders for threshold securities; maintaining identical quotes; market order protection; best execution for block orders, not held orders and orders with special pricing terms or conditions; reporting the capacity in which trades are executed; ensuring the accuracy of trades reported on the member's behalf; the tick test; and books and records.

Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it failed to properly identify orders as short sale orders and, therefore, failed to report to the NNTRF the correct symbol indicating whether transactions were buy, sell, sell short, sell short exempt or cross for transactions in reportable securities, and to properly mark the orders as short. The findings stated that the firm's supervisory system did not provide for supervision reasonably designed to achieve compliance with applicable laws, regulations and FINRA rules concerning the One Percent Rule; the dissemination of quotations to vendors; monthly order execution information; Regulation SHO's locate requirements; the acceptance of short sale orders for threshold securities; maintaining identical quotes; market order protection; best execution for block orders, not held orders and orders with special pricing terms or conditions; reporting the capacity in which trades are executed; ensuring the accuracy of trades reported on the member's behalf; the tick test; and books and records. The findings also stated that the firm failed to produce documentation that it enforced its written supervisory procedures concerning the marking of order tickets and locate requirements. The findings also included that the firm failed to report the correct symbol to the NNTRF or OTCRF indicating whether the firm executed transactions in reportable securities in a principal, "riskless" principal or agency capacity. (FINRA Case #2006004088101)

**Wachovia Capital Markets, LLC (CRD #126292, Charlotte, North Carolina)** submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured, fined \$18,500 and required to revise its written supervisory procedures regarding best execution, sales indicator order marking and trade input, soft dollar agreements and OATS. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it failed, within 90 seconds after execution, to transmit last sale reports of transactions in designated securities to the NNTRF, and failed to designate some of them as late. The findings stated that the firm executed short sale transactions and failed to report them to the NNTRF with the correct symbol indicating whether the transactions were buy, sell, sell short, sell short exempt or cross for transactions in reportable securities. The findings also stated that the firm failed to submit to the NNTRF for the offsetting, "riskless" portion of "riskless" principal transaction(s) in designated securities, either a clearing-only report with a capacity indicator of "riskless principal" or a non-tape, non-clearing report with a capacity



indicator of “riskless principal.” The findings also included that the firm incorrectly submitted non-tape reports to the NNTRF that inaccurately classified last sale reports as the second leg of “riskless” principal transactions when they were “principal” sales that should have been media-reported to the NNTRF. FINRA found that the firm’s supervisory system did not provide for supervision reasonably designed to achieve compliance with applicable securities laws, regulations and/or FINRA rules addressing best execution, sales indicator order marking and trade input, soft dollar agreements and OATS. **(FINRA Case #2007008312701)**

## Individuals Barred or Suspended

**John Wellington Albertson Jr. (CRD #4577872, Registered Representative, Round Rock, Texas)** submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$5,000 and suspended from association with any FINRA member in any capacity for 45 business days. The fine must be paid either immediately upon Albertson’s reassociation with a FINRA member firm following his suspension, or prior to the filing of any application or request for relief from any statutory disqualification, whichever is earlier. Without admitting or denying the findings, Albertson consented to the described sanctions and to the entry of findings that he engaged in outside business activities, for compensation outside the scope of his relationship with his member firm, without providing prompt written notice to his member firm.

The suspension is in effect from March 2, 2009, through May 4, 2009.  
**(FINRA Case #2008013293501)**

**Shawn Paul Arlauckas (CRD #2877644, Registered Principal, Bricktown, New Jersey)** submitted a Letter of Acceptance, Waiver and Consent in which he was barred from association with any FINRA member in any capacity. Without admitting or denying the findings, Arlauckas consented to the described sanction and to the entry of findings that he churned customers’ accounts, resulting in substantial losses, and recommended these excessive securities transactions without having reasonable grounds for believing that the transactions were suitable in view of the size and frequency of the transactions, the nature of the accounts, and the customers’ financial situation, investment objectives and needs. **(FINRA Case #2007009765701)**

**Daniel Gene Barnes (CRD #4815833, Registered Representative, Raleigh, North Carolina)** submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$5,000 and suspended from association with any FINRA member in any capacity for four months. The fine must be paid either immediately upon reassociation with a FINRA member firm following his suspension, or prior to the filing of any application or request for relief from any statutory disqualification, whichever is earlier. Without admitting or denying the findings, Barnes consented to the described sanctions and to the entry of findings that he exercised discretion in a customer’s account to liquidate the customer’s mutual fund positions without the customer’s written authorization or his member firm’s acceptance of the account as discretionary.

The suspension is in effect from February 17, 2009, through June 16, 2009.  
**(FINRA Case #2008012426801)**

**Carlos Manuel Bravo (CRD #1209899, Registered Representative, Miami, Florida)** submitted an Offer of Settlement in which he was suspended from association with any FINRA member in any capacity for 20 business days. In light of Bravo's financial status, no monetary sanctions were imposed. Without admitting or denying the allegations, Bravo consented to the described sanction and to the entry of findings that he engaged in private securities transactions, for compensation, without prompt written notice to, or prior written approval from, his member firm.

The suspension was in effect from March 2, 2009, through March 27, 2009.  
(FINRA Case #2007011272601)

**Christian Powers Call (CRD #2290196, Registered Representative, New York, New York)** submitted a Letter of Acceptance, Waiver and Consent in which he was censured, fined \$5,000 and suspended from association with any FINRA member in any capacity for 45 days. The fine must be paid either immediately upon Call's reassociation with a FINRA member firm following his suspension, or prior to the filing of any application or request for relief from any statutory disqualification, whichever is earlier. Without admitting or denying the findings, Call consented to the described sanctions and to the entry of findings that he supplied price quotes to a propriety trader at another broker-dealer without any independent verification of the accuracy of the prices, but made it appear as if he were providing good faith price quotes. The findings stated that had Call attempted to verify the actual market prices of the corporate bonds at issue, he would have known that the pricing information he re-sent to the trader was inaccurate. The findings also stated that the trader relied on the inaccurate prices quotes to mark positions in his trading book, thereby enhancing his profit and loss statement at his firm, causing the firm to record inaccurate prices for corporate bonds on its books and records.

The suspension is in effect from March 2, 2009, through April 15, 2009.  
(FINRA Case #2007009462301)

**Bill Q. Chen (CRD #4442892, Registered Representative, Arcadia, California)** submitted an Offer of Settlement in which he was barred from association with any FINRA member in any capacity. Without admitting or denying the allegations, Chen consented to the described sanction and to the entry of findings that he engaged in misuse of customer funds when, without a customer's knowledge, authorization or consent, he caused the transfer of \$10,000 from the customer's bank account to the bank account of a business acquaintance to whom Chen owned money. The findings stated that the firm's operations personnel detected the transaction and then Chen reversed it.  
(FINRA Case #2007011324501)

**Ronald R. Cino (CRD #1550944, Registered Representative, Mamaroneck, New York)** submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$5,000 and suspended from association with any FINRA member in any capacity for five business days. Without admitting or denying the findings, Cino consented to the described sanctions and to the entry of findings that he exercised discretion and effected trades in customer accounts without the customers' written authorization and without his member firm's acceptance of the accounts as discretionary.

The suspension was in effect from March 2, 2009, through March 6, 2009.  
(FINRA Case #2007009521601)

**Patrick Vern Clarkson (CRD #4171787, Registered Representative, Eugene, Oregon)** submitted a Letter of Acceptance, Waiver and Consent in which he was barred from association with any FINRA member in any capacity. Without admitting or denying the findings, Clarkson consented to the described sanction and to the entry of findings that he submitted variable life insurance applications for customers to his member firm, signing customers' names on various documents without the customers' knowledge, authorization or consent. The findings stated that Clarkson created checks purporting to be from the customers or purchased money orders with his own funds, signing the customers' names to the money orders and submitted them with the insurance applications to his member firm without the customers' knowledge, authorization or consent. The findings also stated that by engaging in this conduct, Clarkson received \$41,667.98 in commissions from his firm, which subsequently reversed the commissions. (FINRA Case #2007008391201)

**Jordan Zuulun Cohen (CRD #4191994, Registered Representative, New York, New York)** submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$10,000 and suspended from association with any FINRA member in any capacity for six months. The fine must be paid either immediately upon Cohen's reassociation with a FINRA member firm following his suspension, or prior to the filing of any application or request for relief from any statutory disqualification, whichever is earlier. Without admitting or denying the findings, Cohen consented to the described sanctions and to the entry of findings that he recommended and effected excessive and unsuitable securities transactions in a customer's non-discretionary account, given the customer's experience, investment objectives, risk tolerance, financial resources and circumstances. The findings stated that Cohen effected buy orders in a corporate customer's non-discretionary account without prior authorization or consent from the customer's signatory.

The suspension is in effect from March 2, 2009, through September 1, 2009.  
(FINRA Case #2007009408501)

**Dhulsini Hemani De Zoysa (CRD #3127323, Registered Representative, New York, New York)** submitted a Letter of Acceptance, Waiver and Consent in which she was fined \$10,000, barred from association with any FINRA member in any capacity requiring Series 86 and/or Series 87 (Research Analyst) registration, and suspended from association with any member firm in any capacity for 12 months. The fine must be paid either immediately upon De Zoysa's reassociation with a FINRA member firm following her suspension, or prior to the filing of any application or request for relief from any statutory disqualification, whichever is earlier. Without admitting or denying the findings, De Zoysa consented to the described sanctions and to the entry of findings that she published research reports in which she made false, exaggerated, unwarranted or misleading statements, and published the reports, which she knew were false or misleading. The findings stated that De Zoysa was involved in a romantic relationship with an executive of a company within her coverage area and failed to disclose the

relationship, which created an actual, material conflict of interest. The findings also stated that De Zoysa, in contravention of her firm's directive, created and deleted documents on her laptop computer after commencement of the firm's internal investigation.

The suspension is in effect from February 17, 2009, through February 16, 2010.  
**(FINRA Case #2007010562701)**

**Verne T. Dickerson (CRD #5508658, Associated Person, Vienna, Virginia)** submitted an Offer of Settlement in which he was barred from association with any FINRA member in any capacity. Without admitting or denying the allegations, Dickerson consented to the described sanction and to the entry of findings that he willfully failed to disclose material information on his firm's background disclosure form and on his Form U4. The findings stated that Dickerson failed to respond to FINRA requests for information.  
**(FINRA Case #2008013978501)**

**William Andrew Drake Jr. (CRD #5481579, Associated Person, Tigard, Oregon)** submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$5,000 and suspended from association with any FINRA member in any capacity for one month. The fine must be paid either immediately upon Drake's reassociation with a FINRA member firm following his suspension, or prior to the filing of any application or request for relief from any statutory disqualification, whichever is earlier. Without admitting or denying the findings, Drake consented to the described sanctions and to the entry of findings that he failed to disclose material information on his Form U4.

The suspension was in effect from February 17, 2009, through March 16, 2009.  
**(FINRA Case #2008012706601)**

**Scott Michael Epstein (CRD #4268699, Registered Representative, Marlboro, New Jersey)** was barred from association with any FINRA member in any capacity. The SEC sustained the sanction following appeal of a NAC decision. The sanction was based on findings that Epstein recommended and effected unsuitable mutual fund switch transactions without having reasonable grounds for believing that the transactions were suitable for public customers in view of the nature of the recommended transactions, and in light of the customers' financial situations, investment objectives, circumstances and needs.

The U.S. Court of Appeals was petitioned for review, and the sanction is in effect pending consideration of the petition. **(FINRA Case #C9B20040098)**

**Steven Roger Fence (CRD #2618764, Registered Representative, Little Egg Harbor, New Jersey)** submitted a Letter of Acceptance, Waiver and Consent in which he was barred from association with any FINRA member in any capacity. Without admitting or denying the findings, Fence consented to the described sanction and to the entry of findings that he engaged in excessive and unsuitable trading in bonds and mutual funds in elderly customers' accounts without having a reasonable basis for believing that the recommendations were suitable based upon the customers' investment objectives, financial situation and needs. The findings stated that Fence failed to appear for FINRA on-the-record interviews. **(FINRA Case #2007007969801)**

**Dianne Marie Goedel (CRD #4690759, Registered Representative, Centereach, New York)** submitted a Letter of Acceptance, Waiver and Consent in which she was fined \$5,000 and suspended from association with any FINRA member in any capacity for 30 business days. Without admitting or denying the findings, Goedel consented to the described sanctions and to the entry of findings that she improperly altered a Mutual Fund Share Class Disclosures form for purposes of facilitating a married couple's mutual fund transactions instead of having the couple execute new forms. The findings stated that Goedel did not disclose to her member firm or the couple that she had altered the disclosure form.

The suspension was in effect from March 2, 2009, through April 13, 2009.  
(FINRA Case #2007010813201)

**Jon David Gornbein (CRD #4177639, Registered Representative, Keego Harbor, Michigan)** submitted an Offer of Settlement in which he was barred from association with any FINRA member in any capacity. Without admitting or denying the allegations, Gornbein consented to the described sanction and to the entry of findings that he failed to respond to FINRA requests for information. (FINRA Case #2007008641101)

**Joseph William Hagan (CRD #1980623, Registered Representative, Colts Neck, New Jersey)** was fined \$10,000, barred from association with any FINRA member in any principal capacity and suspended from association with any FINRA member in any capacity for three months. The sanctions were based on findings that Hagan evaded an Internal Revenue Service (IRS) garnishment of wages order by routing commissions he earned to an unregistered person at his member firm. The findings stated that Hagan willfully failed to disclose material information on his Forms U4.

The suspension is in effect from February 17, 2009, through May 16, 2009.  
(FINRA Case #2006003825001)

**Gary Allen Hanson (CRD #1909594, Registered Representative, Colorado Springs, Colorado)** submitted a Letter of Acceptance, Waiver and Consent in which he was suspended from association with any FINRA member in any capacity for nine months. In light of Hanson's financial status, no monetary sanctions have been imposed. Without admitting or denying the findings, Hanson consented to the described sanction and to the entry of findings that, while associated with a member firm, he participated in outside business activities, for commissions and compensation, and failed to provide the firm with prompt written notice.

The suspension is in effect from February 17, 2009, through November 16, 2009.  
(FINRA Case #2007010999601)

**Douglas William Hemke (CRD #1204584, Registered Principal, St. Joseph, Missouri)** submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$30,000, suspended from association with any FINRA member in any capacity for 30 business days and suspended from association with any FINRA member in any principal capacity for three months. The suspensions shall run concurrently. The fine must be paid either immediately upon Hemke's reassociation with a FINRA member firm following his suspensions, or prior to the filing of any application or request for relief from any statutory disqualification, whichever is earlier. Without admitting or denying the

findings, Hemke consented to the described sanctions and to the entry of findings that he conducted a securities business while failing to maintain his member firm's required minimum net capital. The findings stated that Hemke exercised discretion in customers' accounts without receiving written customer authorization. The findings also stated that Hemke exercised discretion in customers' accounts when his firm's procedures prohibited discretionary accounts, and later when his firm allowed discretionary accounts but only after written customer authorization was received and the accounts were approved as discretionary accounts. The findings also included that Hemke failed to enforce his firm's procedures relating to discretionary accounts.

The suspension in any capacity was in effect from February 17, 2009, through March 30, 2009. The suspension in all principal capacities is in effect from February 17, 2009, through May 16, 2009. **(FINRA Case #2007008095501)**

**Mitsuhiro Ide (CRD #4782752, Registered Representative, Oklahoma City, Oklahoma)** submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$10,000 and suspended from association with any FINRA member in any capacity for six months. The fine must be paid either immediately upon Ide's reassociation with a FINRA member firm following his suspension, or prior to the filing of any application or request for relief from any statutory disqualification, whichever is earlier. Without admitting or denying the findings, Ide consented to the described sanctions and to the entry of findings that he engaged in an outside business activity, for compensation, without providing notice to his member firm. The findings stated that Ide provided inaccurate information and made misstatements to his firm relating to his undisclosed outside business activity on annual audit questionnaires and during a firm internal investigation.

The suspension is in effect from March 16, 2009, through September 15, 2009. **(FINRA Case #2007009360801)**

**Jeff David Jewett (CRD #4568636, Registered Representative, Bend, Oregon)** submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$15,000, which includes the disgorgement of \$5,000 in financial benefits received, and suspended from association with any FINRA member in any capacity for 18 months. The fine must be paid either immediately upon Jewett's reassociation with a FINRA member firm following his suspension, or prior to the filing of any application or request for relief from any statutory disqualification, whichever is earlier. Without admitting or denying the findings, Jewett consented to the described sanctions and to the entry of findings that he participated in private securities transactions, for compensation, without prior written notice to, or prior written approval from, his member firm.

The suspension is in effect from February 17, 2009, through August 16, 2010. **(FINRA Case #2007008994701)**

**William Francis Kelly (CRD #2456876, Registered Representative, Fort Myers, Florida)** was barred from association with any FINRA member in any capacity. The sanction was based on findings that Kelly failed to respond to FINRA requests for information.



The findings stated that Kelly borrowed \$5,000 from a customer contrary to his member firm's written supervisory procedures prohibiting registered representatives from borrowing from a customer unless the customer was a family member; and the customer was not related to Kelly. **(FINRA Case #2007009131501)**

**James Joseph Miller (CRD #1057886, Registered Representative, Tampa, Florida)** submitted a Letter of Acceptance, Waiver and Consent in which he was barred from association with any FINRA member in any capacity. Without admitting or denying the findings, Miller consented to the described sanction and to the entry of findings that he received \$176,942 from customers to be deposited into their respective brokerage accounts but, instead, he deposited the funds into his personal bank account without the customers' authority, and used the funds to pay for his own personal expenses. **(FINRA Case #2008014125301)**

**Pamela Louise Mirabella (CRD #4956888, Associated Person, Peabody, Massachusetts)** submitted a Letter of Acceptance, Waiver and Consent in which she was fined \$5,000 and suspended from association with any FINRA member in any capacity for six months. The fine must be paid either immediately upon Mirabella's reassociation with a FINRA member firm following her suspension, or prior to the filing of any application or request for relief from any statutory disqualification, whichever is earlier. Without admitting or denying the findings, Mirabella consented to the described sanctions and to the entry of findings that she failed to respond timely to FINRA requests for information and to appear for an on-the-record interview.

The suspension is in effect from February 17, 2009, through August 16, 2009. **(FINRA Case #2008012150702)**

**Rudy Rinehart Mueller (CRD #342122, Registered Representative, Dallas, Texas)** submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$10,000 and suspended from association with any FINRA member in any capacity for 10 business days. Without admitting or denying the findings, Mueller consented to the described sanctions and to the entry of findings that he executed discretion in customers' accounts without prior written authorization that his member firm accepted. In certain instances, Mueller exercised time and price discretion after the business day on which the customer granted authorization to purchase or sell a definite amount of a specified security, without the customers' written authorization.

The suspension was in effect from March 16, 2009, through March 27, 2009. **(FINRA Case #2008012178401)**

**Patricia Estela Murray (CRD #2039682, Registered Representative, Birmingham, Alabama)** submitted a Letter of Acceptance, Waiver and Consent in which she was barred from association with any FINRA member in any capacity. Without admitting or denying the findings, Murray consented to the described sanction and to the entry of findings that she charged a customer at her member firm a fictitious account "maintenance fee" when her firm imposed no such fee on customers. The findings stated that Murray directed the customer to pay the fee by way of a personal check written out to "cash." The findings also stated that the customer complied with Murray's instructions and gave her a check for \$4,025.61, which Murray subsequently cashed. **(FINRA Case #2008012850701)**

**Matthew Edward O’Callaghan (CRD #5273940, Registered Representative, New York, New York)** submitted a Letter of Acceptance, Waiver and Consent in which he was censured, fined \$10,000 and suspended from association with any FINRA member in any capacity for 18 months. The fine must be paid either immediately upon O’Callaghan’s reassociation with a FINRA member firm following his suspension, or prior to the filing of any application or request for relief from any statutory disqualification, whichever is earlier. Without admitting or denying the findings, O’Callaghan consented to the described sanctions and to the entry of findings that he improperly priced various corporate bond positions in his proprietary trading book to improve the profit and loss totals reported in his book. The findings stated that O’Callaghan’s member firm became aware of the mismarkings during a routine reconciliation of his positions for daily mark-to-market purposes. The findings also stated that O’Callaghan’s mismarkings resulted in his firm recording inaccurate prices for corporate bonds on its books and records.

The suspension is in effect from February 17, 2009, through August 16, 2010. (FINRA Case #2007009462302)

**David Alejandro Pedroza (CRD #2326925, Registered Principal, Holmdel, New Jersey)** submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$40,000, suspended from association with any FINRA member in any capacity for four months and required to pay \$933.33 in disgorgement. The fine must be paid either immediately upon Pedroza’s reassociation with a FINRA member firm following his suspension, or prior to the filing of any application or request for relief from any statutory disqualification, whichever is earlier. Without admitting or denying the findings, Pedroza consented to the described sanctions and to the entry of findings that he was the trader responsible for executing his member firm’s transactions in the common stock of a Pink Sheet security, and was the co-head of the firm’s OTC Bulletin Board™ (OTCBB™) and Pink Sheet trading desk. The findings stated that Pedroza failed to honor his firm’s published quotation in the security in responding to liability orders and generally supervised another trader who declined orders, causing the firm to fail to honor its published quotation. The findings also stated that Pedroza filled market-on-close orders at a price above the penultimate trade of the day in the security, reducing the firm’s losses by approximately \$56,000.

The suspension is in effect from March 2, 2009, through July 1, 2009. (FINRA Case #2005001265802)

**Ronald Pellegrino (CRD #832857, Registered Principal, Bellingham, Washington)** was barred from association with any FINRA member firm in any principal capacity. The SEC sustained the sanction following appeal of a National Adjudicatory Council (NAC) decision. The sanction was based on findings that Pellegrino, acting on a member firm’s behalf, failed to develop an adequate supervisory system reasonably designed to achieve compliance with applicable securities laws, regulations and NASD Rules, and ignored “red flags” that should have resulted in additional supervisory scrutiny. The findings stated that Pellegrino’s supervisory failures resulted in firm registered representatives making unsuitable recommendations and misleading customers as to the risks of proprietary products over an extended time. The findings also stated

that Pellegrino facilitated the representatives' misconduct by promoting sales to firm customers rather than improving compliance. The findings also stated that Pellegrino failed to enforce the firm's written supervisory procedures regarding suitability determinations, and failed to take reasonable steps to monitor and have the firm perform appropriate individual suitability determinations based on each investor's personal financial needs as prescribed in the firm's supervisory and compliance manuals rather than solely on suitability guidelines. **(FINRA Case #C3B20050012)**

**Vance A. Philpotts (CRD #3097612, Associated Person, Cambria Heights, New York)** submitted a Letter of Acceptance, Waiver and Consent in which he was barred from association with any FINRA member in any capacity. Without admitting or denying the findings, Philpotts consented to the described sanction and to the entry of findings that, while employed as an unregistered income processing specialist with a member firm, he transferred dividends and other income totaling \$10,959.52 from the firm's operational account to his brokerage account for his own use and benefit, without authorization. The findings stated that Philpotts repaid half of the money he converted and signed a promissory note agreeing to pay the remainder in monthly installments. **(FINRA Case #2008012215701)**

**Phillip Alan Pickle (CRD #2443472, Registered Principal, Broken Arrow, Oklahoma)** submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$10,000 and suspended from association with any FINRA member in any capacity for nine months. The fine must be paid either immediately upon Pickle's reassociation with a FINRA member firm following his suspension, or prior to the filing of any application or request for relief from any statutory disqualification, whichever is earlier. Without admitting or denying the findings, Pickle consented to the described sanctions and to the entry of findings that he engaged in a private securities transaction and failed to give prior written notice to, or receive written approval from, his member firm. The findings stated that Pickle engaged in outside business activities, for compensation, without prompt written notice to his member firm. The findings also stated that Pickle denied receipt of outside compensation when his member firm specifically asked him.

The suspension is in effect from March 2, 2009, through December 1, 2009.  
**(FINRA Case #2007011096901)**

**Michael Julius Resnick (CRD #1267872, Registered Principal, Phoenix, Arizona)** submitted a Letter of Acceptance, Waiver, and Consent in which he was barred from association with any FINRA member firm in any capacity. Without admitting or denying the findings, Resnick consented to the described sanction and to the entry of findings that, while associated with a member firm, he contacted former member firm clients to determine if they were interested in moving their accounts to his current member firm so that he could provide assistance with the accounts. The findings stated that Resnick telephoned clients who had not responded to his earlier calls or correspondence, and left messages advising that he was going to submit a request to his former firm to have them reassigned to him as their registered representative unless they instructed him otherwise. The findings also stated that when the clients did not respond to his call, Resnick cut and pasted their signatures to broker of record

change forms without their authorization or consent. The findings also included that, as a result of his actions, Resnick was able to continue to serve as the broker of record for the customers' mutual fund accounts, but his current firm terminated him for his misconduct and ultimately returned the accounts to his former firm. **(FINRA Case #2008012530901)**

**Gail Marie Rodriguez (CRD #4271558, Registered Representative, East Stroudsburg, Pennsylvania)** submitted a Letter of Acceptance, Waiver and Consent in which she was fined \$5,000 and suspended from association with any FINRA member in any capacity for four months. The fine must be paid either immediately upon Rodriguez' reassociation with a FINRA member firm following her suspension, or prior to the filing of any application or request for relief from any statutory disqualification, whichever is earlier. Without admitting or denying the findings, Rodriguez consented to the described sanctions and to the entry of findings that, on three separate occasions, she deposited \$6.00 to an account she maintained at her bank through a bank automatic teller machine (ATM) but intentionally entered \$600 into the ATM as the deposit amount to cause the account to appear temporarily to hold more funds than it actually held. The findings stated that immediately after each deposit, Rodriguez caused roughly \$500 to be transferred directly from the account to which she made the deposits to a separate account she maintained at her bank to pay personal expenses. The findings also stated that the funds transferred to the second account temporarily enabled Rodriguez to have sufficient funds in that account to satisfy all payments and withdrawals made against it.

The suspension is in effect from March 16, 2009, through July 15, 2009. **(FINRA Case #2008014103401)**

**Philip Donato Rossi (CRD #2001232, Registered Representative, Shaker Heights, Ohio)** was barred from association with any FINRA member in any capacity. The sanction was based on findings that Rossi engaged in outside business activities, for compensation, and failed to give prompt written notice to his member firm. The findings stated that Rossi failed to disclose material information on his Form U4 and failed to respond to FINRA requests for information. **(FINRA Case #2007010767201)**

**Doria Sabia-Florence (CRD #1136269, Registered Representative, Statesboro, Georgia)** was barred from association with any FINRA member in any capacity. The sanction was based on findings that Sabia-Florence completed and forged Letters of Authorization (LOAs) instructing her member firm to transfer funds totaling \$85,100 from various customers' accounts to a firm account her relatives owned, without the customers' authorization. The findings stated that Sabia-Florence received checks totaling \$74,000 from her relatives' account and used the funds for her own benefit. The findings also stated that Sabia-Florence fraudulently induced a customer to give her \$30,000, representing that she would use the funds to purchase a bond for the customer's account but, instead, deposited the funds directly into her bank account and used the funds for her personal benefit. **(FINRA Case #2007008458901)**

**Julianna Marie Shadinger (CRD #3215505, Registered Representative, South Bend, Indiana)** submitted an Offer of Settlement in which she was fined \$5,000, suspended from association with any FINRA member in any capacity for six months, and required

to requalify by examination before reentering the securities industry. Without admitting or denying the allegations, Shadinger consented to the described sanctions and to the entry of findings that, by use of the instrumentalities of interstate commerce or the mails, she made untrue statements of material fact or omitted to state material facts necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading, to public customers. The findings stated that Shadinger made unsuitable recommendations to the customers, causing their funds to be invested in Class A shares of a front-end load mutual fund, which did not have check writing privileges as Shadinger had described, and the funds also incurred fees in the accounts. The findings also stated that Shadinger failed to establish and maintain an available cash balance in the customers' accounts from which they could have written checks, but instead she liquidated mutual fund share positions to cover the amounts of the checks, thereby exercising discretion over their accounts. FINRA found that the customers did not grant Shadinger written authorization to exercise discretion, nor did her member firm accept the accounts as discretionary.

The suspension is in effect from February 17, 2009, through August 16, 2009. **(FINRA Case #2006006045301)**

**Ralph Matthew Shino (CRD #1380293, Registered Principal, Scottsdale, Arizona)** submitted an Offer of Settlement in which he was fined \$25,000 and suspended from association with any FINRA member in any principal capacity for six months. The fine must be paid either immediately upon Shino's reassociation with a FINRA member firm following his suspension, or prior to the filing of any application or request for relief from any statutory disqualification, whichever is earlier. Without admitting or denying the allegations, Shino consented to the described sanctions and to the entry of findings that he failed to supervise a registered principal in a manner reasonably designed to achieve compliance with applicable laws, regulations and rules pertaining to his investment banking and securities business. The findings stated that Shino knew, or should have known, that firm customers were engaging in improper market timing and late trading, and that a registered representative was facilitating the activity. The findings also stated that Shino failed to establish and maintain a supervisory system reasonably designed to achieve compliance with applicable laws, rules and regulations with respect to the individual's activity in customer accounts, his investment banking and securities business, his market-timing business or for the review of mutual fund order receipt, entry and execution to detect and prevent late trading. The findings also included that Shino failed to establish, maintain and enforce written supervisory procedures to supervise the types of business in which the firm and its representatives engaged.

The suspension is in effect from March 16, 2009, through September 15, 2009. **(FINRA Case #E3A2003049501)**

**Yuvraj Singh (CRD #4548200, Registered Representative, Mountain View, California)** was barred from association with any FINRA member in any capacity. The sanction was based on findings that Singh failed to respond to FINRA requests for information and documents. **(FINRA Case #2008012677502)**

**Jonathan Dominic Soranno (CRD #5039149, Registered Representative, Astoria, New York)** submitted a Letter of Acceptance, Waiver and Consent in which he was barred from association with any FINRA member in any capacity. Without admitting or denying the findings, Soranno consented to the described sanction and to the entry of findings that he executed short-term mutual fund switch transactions in a customer's non-discretionary IRA account without the customer's knowledge and authorization. The findings stated that to conceal his conduct, Soranno failed to send trade confirmations and prospectuses to the customer, failed to obtain mutual fund switch letters, and provided misleading responses to his firm's inquiries about the propriety of the trading in the customer's account. The findings also stated that the transactions were unsuitable given the customer's long-term investment goals and objectives, and caused the customer to suffer losses and incur commissions and fees, including \$3,280 in commission payments to Soranno. The findings included that Soranno provided misleading information on employment application documents submitted to another member firm. **(FINRA Case #2007009359901)**

**Edward Randolph Stern (CRD #1565355, Registered Representative, Poulsbo, Washington)** submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$10,000 and suspended from association with any FINRA member in any capacity for 30 business days. The fine must be paid either immediately upon Stern's reassociation with a FINRA member firm following his suspension, or prior to the filing of any application or request for relief from any statutory disqualification, whichever is earlier. Without admitting or denying the findings, Stern consented to the described sanctions and to the entry of findings that, upon learning that a customer was going to need \$350,000, he liquidated positions from the customer's non-discretionary account without the customer's prior authorization to sell the securities. The findings stated that Stern knew that the customer was not aware of the sales of his securities, and after the transactions occurred, he sent messages to the customer about the sales by voicemail and email.

The suspension was in effect from February 17, 2009, through March 30, 2009. **(FINRA Case #2008011992101)**

**Cary William Sucoff (CRD #1156732, Registered Principal, Cold Spring Harbor, New York)** and **Lewis Mason (CRD #1797652, Registered Representative, Old Westbury, New York)** submitted a Letter of Acceptance, Waiver and Consent in which each was fined \$10,000 and suspended from association with any FINRA member in any capacity for 15 business days. Without admitting or denying the findings, Sucoff and Mason consented to the described sanctions and to the entry of findings that they engaged in outside business activities, for compensation, without providing prompt written notice to their member firm.

The suspensions were in effect from March 16, 2009, through April 3, 2009. **(FINRA Case #2007007357901)**

**Allerton Towne (CRD #1212315, Registered Representative, Boca Raton, Florida)** was barred from association with any FINRA member in any capacity. The sanction was based on findings that Towne intentionally, and without authorization, converted \$4,181.81 from a customer account to the account of a corporation he owned with



the same name, and used the funds for personal expenditures. The findings stated that Towne engaged in outside business activities, for compensation, and failed to notify his member firm. The findings also stated that Towne failed to respond to FINRA requests for documents. **(FINRA Case #2005003031001)**

## Individuals Fined

**Jason Patrick Kavanaugh (CRD #2693303, Registered Principal, Ann Arbor, Michigan)** submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$10,000. The fine must be paid either immediately upon Kavanaugh's reassociation with a FINRA member or prior to the filing of any application or request for relief from any statutory disqualification, whichever is earlier. Without admitting or denying the findings, Kavanaugh consented to the described sanction and to the entry of findings that he engaged in a private securities transaction without providing written notification to, and receiving written approval from, his member firm. **(FINRA Case #2008012199301)**

**Andrew Shubert (CRD #1457528, Registered Principal, Woodmere, New York)** submitted a Letter of Acceptance, Waiver and Consent in which he was censured and fined \$10,000. Without admitting or denying the findings, Shubert consented to the described sanctions and to the entry of findings that he failed to establish and maintain written procedures to supervise his member firm's business consulting services to issuers, including procedures that required a principal to approve the business consulting agreements or to review or supervise the services the firm provided to issuers. The findings stated that, as a result of Schubert's failing to establish and maintain written procedures, his member firm failed to detect or prevent market making violations. **(FINRA Case #2006006784201)**

## Decision Issued

The Office of Hearing Officers (OHO) issued the following decision, which has been appealed to or called for review by the NAC as of February 28, 2009. The NAC may increase, decrease, modify or reverse the findings and sanctions imposed in the decision. Initial decisions where the time for appeal has not yet expired will be reported in future FINRA Notices.

**Richard Grant Cody (CRD #2794558, Registered Representative, Boston, Massachusetts)** was fined \$27,500 and suspended from association with any FINRA member in any capacity for three months. The sanctions were based on findings that Cody recommended and effected quantitatively and qualitatively unsuitable trades in customer accounts. The findings stated that Cody sent misleading and unapproved summary spreadsheets of their account holdings to customers. The findings also stated that Cody failed to timely amend his Form U4 with material information.

This decision has been appealed to the NAC, and the sanctions are not in effect pending consideration of the appeal. **(FINRA Case #2005003188901)**

## Complaints Filed

FINRA issued the following complaints. Issuance of a disciplinary complaint represents FINRA's initiation of a formal proceeding in which findings as to the allegations in the complaint have not been made and does not represent a decision as to any of the allegations contained in the complaint. Because these complaints are unadjudicated, you may wish to contact the respondents before drawing any conclusions regarding these allegations in the complaint.

**Leonard Charles Brown (CRD #3079259, Registered Representative, Phoenix, Arizona)** was named as a respondent in a FINRA complaint alleging that he received \$20,000 from a customer to be invested in a real estate project, but instead deposited the funds in a bank checking account in the name of a business he owned and used the funds to pay personal expenses without the customer's authorization. The complaint alleges that Brown electronically submitted to his member firm an Outside Business Activities questionnaire in which he informed the firm of his ownership of the business, but stated that the business was "cattle ranching" and that his duties did not involve raising capital or issuing debt. The complaint also alleges that Brown failed to return the funds to the customer. **(FINRA Case #2007009081801)**

**Jesse John Hinkley (CRD #5098659, Registered Representative, New Fairfield, Connecticut)** was named as a respondent in a FINRA complaint alleging that he engaged in improper telephone solicitations of potential customers in connection with the offer of securities, and made untrue statements of material facts and omitted to state material facts necessary to make the statements made, in light of the circumstance under which they were made, not misleading. The complaint alleges that Hinkley made false representations in the form of unwarranted price predictions, that lacked a reasonable basis for the predictions and touted companies, but omitted to disclose any risks associated with the proposed investments. The complaint also alleges that Hinkley falsely represented that he had years of success as a broker in managing customer accounts, when he had actually been a broker for less than a year, and misleadingly suggested that past performance implied future performance. The complaint further alleges that Hinkley falsely represented a minimum share requirement for processing an order through his firm. In addition, the complaint alleges that Hinkley used sales scripts that a registered principal of his firm had not approved prior to use; did not disclose the name of his member firm; failed to provide or offer available investment information supporting each recommendation; were not fair and balanced, omitted material facts, were materially misleading; and contained unwarranted price predictions and performance projections. The complaint also alleges that Hinkley failed to respond to FINRA requests for information and documents, and failed to appear for an on-the-record interview. **(FINRA Case #2007007358602)**

**Christopher Jacob Martinez (CRD #4072355, Registered Representative, Tucson, Arizona)** was named as a respondent in a FINRA complaint alleging that he withdrew funds totaling \$51,300 from his member firm's customer annuity accounts and converted the funds to his own use, without the customers' request or authorization. The complaint alleges that Martinez failed to respond to FINRA requests for information and documents. **(FINRA Case #2007010851901)**

**Maria Duarte Pumariega (CRD #2419535, Registered Representative, Miami, Florida)** was named as a respondent in a FINRA complaint alleging that she converted \$140,000 from a customer without permission and authority, and used the funds for her own use and benefit. The complaint also alleges that Pumariega failed to respond to FINRA requests for information. **(FINRA Case #2007011884701)**

**Michael Alan Rosenblatt (CRD #1322095, Registered Principal, Cherry Hill, New Jersey) and David Steven Forman (CRD #1143810, Registered Representative, Voorhees, New Jersey)** were named as respondents in a FINRA complaint alleging that they took control of a customer's \$5 million life insurance policy, sending payments to avoid a lapse in the policy without the customer's knowledge or consent; facilitated the sale of the policy with forged and falsified documents, and retained the entire amount of the sale proceeds totaling \$942,000 for themselves. The complaint alleges that Forman and Rosenblatt induced the customer to sign certain documents in furtherance of the transaction by leading him to believe that the policy was being offered to potential buyers for his benefit. **(FINRA Case #2007007989901)**

**Victoria Ann Toth (CRD #4667623, Registered Representative, Chester, New York)** was named as a respondent in a FINRA complaint alleging that she misappropriated \$15,000 from a customer's account without permission, and used the funds for her own use and benefit. The complaint alleges that Toth failed to respond to FINRA requests for information or to provide testimony. **(FINRA Case #2008012343001)**

**Scott Thomas Valente (CRD #1177354, Registered Representative, Schenectady, New York)** was named as a respondent in a FINRA complaint alleging that he engaged in excessive and unsuitable trading in customers' accounts without having reasonable grounds for believing the transactions were suitable for the customers in view of the size and frequency of the transactions, the transaction costs incurred, and in light of the customers' financial situations, investment objectives and needs. The complaint alleges that Valente exercised discretion in the customers' accounts without the customers' prior written authorization and his member firm's acceptance of the accounts as discretionary. The complaint also alleges that Valente provided falsified documents to customers that misrepresented the value of their accounts and investments. **(FINRA Case #2006007370402)**

**Firm Expelled for Failure to Pay Fines and/or Costs Pursuant to FINRA Rule 8320**

America First Associates, Corp.  
Stewart Manor, New York  
(February 6, 2009)

**Firm Cancelled for Failure to Meet Eligibility Standards Pursuant to FINRA Rule 9555**

Hanover Investment Securities, Inc.  
Madisonville, Louisiana  
(February 9, 2009)

**Firm Suspended for Failure to Pay Annual Assessment Fees Pursuant to FINRA Rule 9553**

(The date the suspension began is listed after the entry. If the suspension has been lifted, the date follows the suspension date.)

Fox & Company Investments Inc.  
Phoenix, Arizona  
(February 25, 2009)

**Individuals Revoked for Failing to Pay Fines and/or Costs Pursuant to FINRA Rule 8320**

(If the revocation has been rescinded, the date follows the revocation date.)

Benjamin Allan Centeno  
Chino, California  
(February 26, 2009 – March 17, 2009)

John Michael Curran  
Coppell, Texas  
(February 6, 2009)

Bruce Neal Orr  
St. Augustine, Florida  
(February 26, 2009)

Joseph Ricupero  
Stewart Manor, New York  
(February 6, 2009)

**Individuals Barred Pursuant to FINRA Rule 9552(h)**

(If the bar has been vacated, the date follows the bar date.)

John Joseph Callahan Jr.  
Lagrangeville, New York  
(February 11, 2009)

Charles Roland Douglass Jr.  
Union, South Carolina  
(February 17, 2009)

John Munsuk Lee  
Fort Lee, New Jersey  
(February 24, 2009)

Denise L. Wilms  
Eastpointe, Michigan  
(February 11, 2009)

**Individuals Suspended Pursuant to FINRA Rule 9552(d)**

(The date the suspension began is listed after the entry. If the suspension has been lifted, the date follows the suspension date.)

Gerardo A. Fernandez  
Parkland, Florida  
(February 17, 2009)

Catherine Marie Hennagir  
Houston, Texas  
(February 20, 2009)

**Individuals Suspended for Failure to Comply with an Arbitration Award or Settlement Agreement Pursuant to FINRA Rule 9554**

(The date the suspension began is listed after the entry. If the suspension has been lifted, the date follows the suspension date.)

**Mayra Jeanette Angulo**  
Tucson, Arizona  
(February 26, 2009)

**Michael S. Berteletti**  
Staten Island, New York  
(February 12, 2009)

**Frank Anthony Caldararo Jr.**  
Commack, New York  
(February 12, 2009)

**Andrew Grigsby Costa**  
Fort Lauderdale, Florida  
(February 12, 2009 – February 20, 2009)

**Barry Carter Hixon**  
Jensen Beach, Florida  
(February 3, 2009)

**Mark Islas**  
Tucson, Arizona  
(February 26, 2009)

**Jason Lee Laney**  
Fresno, California  
(February 12, 2009)

**Michael Harold McClellan**  
Bakersfield, California  
(February 3, 2009)

**Edgar Olmeda**  
Flushing, New York  
(February 3, 2009)

**Jason Robert Swan**  
Portland, Oregon  
(February 12, 2009)

## **FINRA Fines Wachovia Units More Than \$4.5 Million for Failures Relating to Trust and Mutual Fund Sales**

### **Firm Provides More than \$5.4 Million in Remediation to Customers**

FINRA fined two Wachovia units more than \$4.5 million for violations related to the sales of mutual funds and Unit Investment Trusts (UIT). More than \$5.4 million has been returned to affected customers.

Wachovia Securities was fined \$4.41 million for its failure to provide investors with sales charge discounts in eligible UIT transactions, its failure to ensure that investors received the benefit of Net Asset Value (NAV) transfer programs in applicable mutual fund purchases and for suitability violations related to the sale of Class B and C mutual fund shares. Wachovia Securities Financial Network was fined \$150,500 for suitability violations related to improper Class B share sales. The fines reflect the \$4 million-plus in additional commissions the firms received by selling Class B and C shares rather than Class A shares.

Wachovia has already returned over \$2.4 million to Class A purchasers in connection with 4,200 NAV transfer transactions and approximately \$3 million to customers in connection with over 20,000 UIT transactions. As part of the settlement, the firms will also provide remediation to 5,850 households that purchased Class B and C shares in over 14,500 transactions and to additional eligible NAV customers who did not receive the benefit of NAV transfer programs.

“Firms must consider all relevant factors when recommending securities,” said Susan L. Merrill, FINRA’s Executive Vice President and Chief of Enforcement. “The failure to provide available discounts or recommend a suitable share class wrongly increases costs to investors. We are pleased that through these settlements millions of dollars are being returned to customers.”

UITs are investment companies that offer redeemable shares, or units, of a generally fixed portfolio of securities in a one-time public offering and terminate on a specified date. During the relevant period, UIT sponsors generally offered sales charge discounts to investors, known as “breakpoint discounts” and “rollover discounts.” A breakpoint discount is a reduced sales charge based on the dollar amount of the purchase - the higher the dollar amount, the deeper the discount. A rollover discount is a reduced sales charge that an investor is entitled to when he or she purchases a new UIT from the same sponsor using the proceeds received from a terminated UIT.

FINRA found that Wachovia Securities failed to provide rollover discounts in connection with over 15,000 customer purchases of UITs. The firm also failed to provide breakpoint discounts in connection with approximately 5,000 customer UIT purchases. As a result, customers paid approximately \$2.71 million in excessive sales charges.

NAV Transfer programs were offered by many mutual fund families from 2001 through 2004. Under these programs, customers who redeemed fund shares for which they had paid a sales charge were permitted to use the proceeds to purchase Class A shares of a new mutual fund at NAV - that is, without paying another sales charge. FINRA found that Wachovia Securities failed to ensure that eligible investors received the benefit of



available NAV transfer programs. As a result, certain customers incurred front-end sales charges they should not have paid, or purchased other share classes that unnecessarily subjected them to higher fees and the potential of contingent deferred sales charges.

FINRA found that Wachovia Securities made unsuitable sales of Class B and C shares and Wachovia Securities Financial Network made unsuitable sales of Class B shares. Wachovia Securities recommended the purchase of Class B and C shares, and Wachovia Securities Financial Network recommended the purchase of B shares, without considering, on a consistent basis, that an equal investment in Class A shares would have generally been more advantageous for certain customers.

FINRA also found that Wachovia Securities had inadequate supervisory procedures relating to UIT, NAV transfer program and Class B and C sales and Wachovia Securities Financial Network had inadequate supervisory procedures relating to Class B share sales.

Each firm settled these matters without admitting or denying the allegations, but consented to the entry of FINRA's findings.

## **FINRA Fines Robert W. Baird & Co. \$500,000 for Fee-Based Account, Breakpoint Violations**

### **Firm to Return More Than \$434,000 in Fees, Plus Interest, To Customers**

FINRA fined Robert W. Baird & Co. \$500,000 for supervisory violations relating to its fee-based brokerage business. FINRA also ordered Baird to return \$434,510 in fees, plus interest, to 154 customers. Those customers either paid fees in fee-based accounts without generating activity or paid fees higher than those indicated on the Baird fee schedule.

Fee-based brokerage accounts first became available in 1999 as a result of a proposed Securities and Exchange Commission (SEC) rule that exempted brokers from certain elements of the Investment Advisers Act of 1940. In March 2007, a federal court struck down the final version of that SEC rule—and since then, fee-based brokerage accounts have become obsolete. Baird terminated its fee-based brokerage account program—called 360/One accounts—on Sept. 30, 2007.

Typically in fee-based brokerage accounts, customers were charged an annual fee that was usually a percentage of the account's assets with an annual minimum, rather than a commission for each transaction as in a traditional brokerage account. Firms were required to determine whether a fee-based account was appropriate for an investor—and remained appropriate for that investor—based on the projected cost to the investor, available alternative fee structures, the services provided and the investor's fee structure preferences. In most instances, investors who traded frequently benefited from being in a fee-based account, while investors who traded rarely paid less in a traditional brokerage account. Compensation earned by the firm and the broker from a fee-based account was generally not dependent on whether a customer bought or sold securities.

FINRA found that Baird's failure to adequately review its 360/One accounts during a period in which the 360/One program grew from approximately 7,000 accounts to over 11,000 accounts allowed numerous 360/One customers to remain in the program despite conducting no trades for at least eight consecutive quarters. These accounts paid over \$269,000 in fees during the inactive quarters (that is, excluding the first four consecutive quarters with no trades).

Baird also failed to have a supervisory system in place to automatically credit certain 360/One customers with breakpoint discounts that were specified in new account agreements. As a result, 53 customers paid fees higher than those indicated on the Baird fee schedule, resulting in total overpayments of approximately \$165,000.

In addition, from May 1999 through January 2005, Baird failed to adequately disclose to its fee-based customers that assets held on margin—for which the customer might already be paying interest—and short sales were included as eligible assets for purposes of fee calculation.

In settling this matter, the firm neither admitted nor denied the charges, but consented to the entry of FINRA's findings.

## **FINRA Fines Citigroup Global Markets \$2 Million for Range of Trade Reporting Violations**

### **Firm Published Erroneous Quotations and Transactions at and Around Opening on a Quadruple Witch Expiration Friday**

FINRA imposed a \$2 million fine against Citigroup Global Markets for the erroneous publication of non-bona fide quotations and transactions at and around the NASDAQ market opening on a Quadruple Witch Expiration Friday; systemic Order Audit Trail System (OATS) reporting violations; fixed income transaction reporting violations; limit order display violations; and related supervisory failures. These violations occurred in 2006 and prior years.

FINRA found, as a result of a referral from the NASDAQ's MarketWatch Department, that Citigroup failed to properly monitor certain of its trading systems at the opening on June 17, 2005, a Quadruple Witch Expiration Friday. Quadruple Witch Expiration Fridays occur once each quarter, when stock index futures, index options, stock options, and options on stock index futures simultaneously expire.

These system failures resulted in the erroneous publication of approximately 6,800 non-bona fide transactions in more than 170 securities that the firm ultimately cancelled via Clearly Erroneous Petitions. The systems failures also resulted in the publication of thousands of non-bona fide quotations, which triggered executions by other firms at prices unrelated to the market value of the securities, requiring those firms to petition to cancel over 1,400 trades.

“Firms must establish and maintain operational controls and supervisory systems reasonably and effectively designed to ensure that their trading systems function correctly, especially on expiration days when price discovery is particularly important,” said Tom Gira, Executive Vice President of FINRA’s Market Regulation Department.

FINRA further found that Citigroup did not report approximately 6 million orders to OATS between August 1, 1999 and July 10, 2006. From July 2002 through September 2006, Citigroup inaccurately reported or failed to report over 300,000 transactions to FINRA’s Trade Reporting and Compliance Engine (TRACE) and inaccurately reported or failed to report more than 480,000 transactions to the Municipal Securities Rulemaking Board.

In concluding this settlement, Citigroup neither admitted nor denied the charges, but consented to the entry of FINRA’s findings.